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Reply to Office Action of June 3, 2005

### **REMARKS/ARGUMENTS**

Claims 1-17 were presented for consideration and are currently pending in the above identified application. Claims 1-17 were rejected by the Examiner as reported in the USPTO communication dated June 3, 2005. The Applicants thank the Examiner for considering the claims and providing thoughtful comments. The Applicants respectfully traverse the rejections based on the following amendments and remarks.

Claims 7 and 14-17 are herein amended and no new claims are added. Claim 8 is canceled without prejudice. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution of the application. In making this amendment, Applicants have not and do not narrow the scope of the protection to which the Applicants consider the claimed invention to be entitled and do not concede that the subject matter of such claims were in fact disclosed or taught by the cited prior art. Rather, Applicants reserve the right to pursue such protection at a later point in time and merely seek to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and withdraw them.

#### **I. Rejection of Claims under 35 U.S.C. §112**

Claims 14 and 16 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. Specifically, the Examiner contends claims 14 and 16 both claim a system and a process leading to the rejection of the claims on the grounds that they do not clearly define the subject matter that the Applicants regard as their invention.

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The processes cited and objected to by the Examiner have been rewritten as separate components. Accordingly, the system recited in claim 14 and claim 16 are each believed to particularly point out and distinctly claim the subject matter that the Applicants regard as their invention. The Applicants respectfully request the rejections be withdrawn. The Examiner further identified three instances of lack antecedent basis in claims 15 and 16. The Applicants herein amend claims 15 and 16 providing proper antecedent basis for each claim element. The Applicants thank the Examiner for identifying the oversight and respectfully request reconsideration of the claims.

## **II. Rejection of Claims under 35 U.S.C. §102**

Claims 7 and 8 were rejected under 35 U.S.C. § 102(e) as being anticipated by Richard Adler, "Distributed Coordination Models for Client/Server Computing", April 1995 ("Adler"). Claims 14-17 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,085,222 ("Fujino"). The Applicants respectfully traverse these rejections, in light of the remarks presented below.

MPEP §2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir.1987). "The identical invention must be shown in as complete detail as contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

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The reference cited by the Examiner fails to disclose each and every limitation claimed by the Applicants. For example, independent claim 7 recites, among other things, "at least one network-connected client computer, a redirection component responsive to a client request for selecting a particular one of the network-connected servers that implements a set of functions suitable for responding to the client request and redirecting the requesting client to the selected server, a first network-connected server in communication with the client computer, and a second network-connected server in communication with the first network-connected server, wherein the redirection component operates within the first network-connected server to identify and communicate with the second network-connected server to enable the first network-connected server to respond to the client request."

Adler fails to disclose a system where a first network-connected server communicates with a second network-connected server to enable the first network-connected server to respond to the client request. Adler appears to disclose a coordination system that enable developers and their client programs to identify suite servers and obtain services from them. Adler pg. 15. The Examiner points to the second column of page 17 of Adler to support his rejection of claim 7 and 8. Adler describes a broker that is "a dedicated control mechanism that mediates interactions between client applications needing services and server applications capable of providing them." Adler page 17 second column, 1<sup>st</sup> paragraph. Adler continues to describe in text and in figures (figures 4a and 4b) of a forward broker system and a handle driven broker system. The Applicants' invention is not disclosed by either system. In the forward broker system, as pictures in figure 4a and described in the section paragraph of page 17, second column, the broker is interposed between the client and the server and acts to relay the clients requests and the servers response. The system pictured in figure 4b and described in text on page 17 is a

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handle driven broker in which the broker "returns a service 'handle' back to the client." The client uses this handle to issues its requests directly to the server application which then relies back to the client." Id. (emphasis added)

The Applicants' invention as recited in claim 7 describes a client in communication with a first server having a redirector component. A second server in communication with the first server that, through the redirection component, enable the first server to respond to the client requests. The first server then redirects the client to a selected (third) server that implements a set of functions suitable for responding to the client request. The Applicants' invention is neither a forward broker or a handle-driven broker as disclosed in Adler. Adler fails to disclose each and every aspect of the Applicants' invention as recited in claim 7. The Applicants respectfully submit that Adler does not anticipate claim 7 and requests the rejection be withdrawn.

Claims 14-17 were rejected under 35 U.S.C. § 102(e) as being anticipated by Fujino. As with Adler, Fujino fails to disclose each and every limitation claimed by the Applicants. Claim 14 recites, among other things, "application software in the second network service component for transforming raw data from the data store into a graphic display." Fujino appears to disclose a server management system that deletes content not supported by a client to minimize data transfer and relieve network congestion. See Fujino col. 5, lines 52-62. Fujino does not transform, alter, or manipulate existing data into a graphic display. Fujino simply acts to eliminate excess data being transferred from the server to the client. As Fujino does not disclose each and every limitation of claim 14, the rejection of claim 14 as being anticipated by Fujino must fail. The Applicants respectfully request the rejection be withdrawn and the claim reconsidered. Claims 15-17, in varying language, also act to transform content or data into a rendered format. For at least the same reasons, claims 15-17 are

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not anticipated by Fujino. The Applicants respectfully request the rejection of claims 15-17 be withdrawn and the claims reconsidered.

### **III. Rejection of Claims under 35 U.S.C. §103**

Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Adler. Claims 1-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adler in view of U.S. Patent No. 6,477,563 ("Kawamura"). Claims 10-13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over European Patent EP 0828214 A2 ("Nepustil"). The Applicants respectfully traverse the rejection in light of the following remark and respectfully request reconsideration.

MPEP §2143 provides:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

With respect to claim 9, Adler does not teach or suggest all of the claimed limitations recited in claim 9 or its base claim for at least the same reasons forwarded for claim 7. Accordingly, the rejection of claim 9 under 35 U.S.C. 103(a) must fail and the Applicants respectfully request its rejection be withdrawn.

Likewise, Adler in view of Kawamura fails to teach or suggest all of the limitations recited in claim 1. Independent claim 1 recites, among other things,

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"a shifting component within the management component operable to shift data and program components between the network-connected servers ...." The Examiner admits that "Adler does not specifically disclose a shifting component within a management component coupled to each of the network-connected servers, operable to shift data and program components between network-connected servers so as to configure a selected server to implement a specified set of functions." USPTO communication dated June 3, 2005. To compensate for Adler's deficiency, the Examiner attempts to rely on Kawamura.

The Examiner asserts that Kawamura discloses a shifting component operable to shift data and content between servers. The Examiner's reliance in Kawamura is misplaced. Kawamura appears to teach an agent based managerial system that, when necessary, moves an agent or has the agent cooperate with other agents. Kawamura, Col. 6, lines 35-43. Agent-oriented technology is a software development technology which aims to create a piece of software by treating agents as units, an agent being a unit of processing software. An "agent can be classified as mobile agents, which are capable of being moved between nodes...." Kawamura, Col. 1, line 62; Col. 2, line 4. Kawamura continues to disclose agent systems by stating "in the most basic case, the user issues a script from the input/output means 803 to a guaranteed agent. The script is an action program for an agent ..., for example, of which node is to be moved to and what process is to be performed." *Id.* Kawamura appears to teach a managerial system that transports functionality between nodes and in some cases fosters individual node functionality to cooperate with one another. Claim 1 in contrast recites a shifting component operable to shift data and program components. Kawamura moves only functional program components. Even the Examiner recognized this deficiency by stating, "It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Adler and Kawamura because Kawamura

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management component with the shifting component of functions (agents)  
could provide Adler's system with flexible operation in response for status of the network ...." USPTO communication dated June 3, 2005 (emphasis added)

Adler in view of Kawamura does not teach or suggest a shift component operable to shift data and program components. To establish a prime facie case of obviousness the reference (or combined references) must teach or suggest each and every claimed limitation. MPEP § 2143.

Adler in view of Kawamura fails to teach and suggest each and every limitation recited in claim 1. Accordingly, the Applicants respectfully request the rejection of claim 1 be withdrawn and the claim reconsidered. Claims 2-6 depend from claim 1 and are, for at least the same reasons, patentable over Adler in view of Kawamura. The Applicants request the rejection of claims 2-6 be withdrawn.

With respect to claims 10-13, the Applicants respectfully traverse the Examiner's rejections. The Examiner improperly expands the scope of Nepustil in an attempt to encompass the Applicants' invention. Specifically, Nepustil fails to teach or suggest delivery of web pages by distributed and cooperative interaction using services and content by both a first and second web server. Nepustil appears to teach a system that "as demand for services increases and processing load on the primary server becomes excessive, the primary server automatically avoids the process of those portions ... of the information onto the supplemental servers." Nepustil Col. 2, lines 10-19. As demand for service decreases and the primary server becomes under loaded, the primary server automatically resumes serving the entire client request. Nepustil teaches an overflow system for communicating replicated or cached web page content. An overflow system for replicated content is not a substitute for a distributed and cooperative interaction using services and content provided by both a first and

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second server. The Applicants' invention implements a web site by delivering web pages from two or more servers by a distributed and cooperative interaction using both servers and content from each server. Nepustil is more aligned with a overflow valve that a cooperative effort to interact and supply a web site. The two inventions are not analogous. Nepustil fails to teach and suggest every limitation recited in claim 10. Claim 10 cannot, therefore, be unpatentable over Nepustil. Accordingly, the Applicants respectfully request the rejection be withdrawn. Claims 11-13 depend from Claim 11 and are, for at least the same reasons, patentable over Nepustil.

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

1 August, 2005

  
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